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Supreme Court, U.S.
FILED

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No. 97

In The
Supreme Court of the United States
October Term, 1997

Nelson Egbert,
Petitioner,

vs.

Judy Reis, Harleysville Insurance Companies,
Highway Paving Company, Joseph Ciano,
and Charles L. Sanderson, Jr.,
Respondents.

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT
OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Nelson Egbert, Pro Se
97 Green Street
Brattleboro, VT 05301
(802) 254-2001

December 18, 1997

14 pp

QUESTIONS PRESENTED FOR REVIEW

1. Federal Question: State law is in conflict with United States Constitution. Can New Jersey State Law obstruct constitutional day in court right of diversity citizenship petitioner?

2. "Rule 60 Relief from Judgment or Order (b)(3) fraud (whether heretofore denominated, intrinsic, or extrinsic), misrepresentation, or other misconduct of an adverse party." Will the United States Supreme Court rescue the victim of this bad behavior which was ignored by the inferior courts?

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PETITION FOR APPEAL

History of Case

1. A Complaint was filed on May 6, 1996;
2. Order to Show Cause filed May 8, 1996;
3. Brief filed by Plaintiff in response to the May 8, 1996, Order to Show Cause;
4. Order granting Plaintiff Leave to Amend the Complaint and Providing for Dismissal if Proposed Amendment is not Filed dated May 29, 1996;
5. Letter dated May 29, 1996, from the Court to the Plaintiff; and
6. "Orders to Claims Against Judy Reis and Harleysville Insurance Companies and Amend Complaint Succinctly Plead Federal Jurisdiction and Add Names of Driver and Owner of Offending Truck" filed by the Plaintiff on June 24, 1996.

In letter dated May 29, 1996, from the Court to the Plaintiff, Judge Irenas states that the right to proceed pro se is of little value; justice for the ordinary person is our goal even if it cuts down the income of the commercial legalisticalism.

Jurisdiction

Supreme Court jurisdiction is invoked pursuant to F.C.J.P.R. No. 28 § 1332 and Article III of the Constitution of the United States.

This petition was filed within ninety (90) days of the appeals from in the Third Circuit of the United States Court of Appeal.

Constitutional Provisions Involved

Fourteenth Amendment, Section One:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. . . No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States . . . nor deny to any person within its jurisdiction the equal protection of the laws.

Article III

The judicial Power shall extend to all Cases in Law and Equity, arising under this Constitution, or which shall be made, under their Authority--to all Cases...to Controversies between two or more States;--between a State and Citizens of another State:--between citizens of different States.

Article VII

In suits of common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

Statement of the Case

On May 12. 1994. as I was driving in small village of Atco, New Jersey, I was rearended by a large highway company paving truck with heavy gage metal structure high up from the ground, which went past my rear bumper,

buckling my trunk, pushing it against the rear window, smashing tail light on the passenger side, and damaging passenger door frame. My left knee swelled up after the accident. The local police released the driver before I had full information. A belligerent policeman accused me wrongfully of going through a stop sign even though I had been going straight for a mile, arrested me, and gave me a ticket to appear six weeks later in Waterford Township Court. I was exonerated at the Court but when I attempted to collect damages from the insurance company, I was treated evasively and the case dragged on until the end of a two year period, which would go beyond the time allowed in New Jersey to bring it to Court. Therefore, I brought the case into the United States District Court in Camden, New Jersey. Harleysville Insurance Companies continued to bear false witness against me and followed the tactics of elusion, collusion and confusion.

Reasons for Granting Appeal

Wisdom of forefathers in making Federal case of diversity citizenship is evident in the prejudicial and biased treatment I have received these years since May 12, 1994.

U.S. District Court Judge Irenas cut the case in half because he said the insurance company was immune by New Jersey law, but the New Jersey law is very strict in requiring good faith treatment of claimants. Agent of insurance company would not check my exoneration in the Municipal Court because she said they would not remember what happened, but I sent her a copy of the Court record. I had a hard time getting back the Certificate of Delivery to her from the Post Office.

Conclusion

District Court Judge said I had no case against the insurance company because the New Jersey State Law did not permit direct action to be brought against an insurance company for something someone else did, but the insurance agent continued to make the false accusation made by the insured even after it was disproved in Court. Therefore, they were also guilty of libel for the same thing as fellow members of the cooperative fraud, slander and libel.

Road rage is receiving attention in the newspapers and television. Frustration with seven year insurance company mixups since the compulsory insurance laws have been in effect, is in a large part responsible. In my petitions, I have asked for most of the money for damages to my car, mind, body and reputation to be used for contests in the schools to help the children help the adults turn back emotional warfare. My reputation cannot be bought but it can be rehabilitated, as well as the reputation of the insurance company and highway paving company and bring about the equity which is so much more important than a money settlement. For these reasons, I write to appeal to review the judgment of the District and Appeals Courts by the United States Supreme Court. May they be either be summarily reversed or remanded for trial by jury, because of the importance of treating highway victims in a way that will not cause them to use deadly weapons to assert their rights.

Remember Abraham Lincoln stated, "You can fool some of the people all of the time and you may fool all of the people some of the time but you can't fool all of the people all of the time."

Sincerely submitted,

Nelson Egbert, Pro Se
97 Green Street
Brattleboro, VT 05301
(802) 254-2001

December 18, 1997

Sworn to and subscribed before me this 17th day of December 1997. State of Vermont, County of Windham

Notary Public

Commission Expires: 2/10/99

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 96-5409 & 96-5501

NELSON EGBERT,

v.

JUDY REIS; HARLEYSVILLE INSURANCE COMPANY;
HIGHWAY PAVING COMPANY; JOSEPH CIANO;
CHARLES L. SANDERSON, JR.

On Appeal from the United States District Court
for the District of New Jersey
(D.C. No. 96-cv-022255)
District Judge: Hon. Joseph E. Irenas

Submitted Pursuant to Third Circuit LAR 34.1(a)
September 3, 1997
Before: SLOVITER, Chief Judge,
McKEE and SEITZ, Circuit Judges

JUDGMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED and ORDERED that the judgments of the district court entered May 29, 1996 and June 27, 1996 be and are hereby affirmed.

By the Court,
/S/ Sloviter
Chief Judge

Attest:
/S/ P. Douglas Sisk
P. Douglas Sisk, Clerk
Dated: September 22, 1997

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 96-5409 & 96-5501

NELSON EGBERT

v.

JUDY REIS; HARLEYSVILLE INSURANCE COMPANIES; HIGHWAY PAVING COMPANY; JOSEPH CIANO; CHARLES L. SANDERSON, JR.

SUR PETITION FOR REHEARING

Present: SLOVITER, Chief Judge, BECKER, STAPLETON MANSMANN, GREENBERG, SCIRICA, COWEN NYGAARD, ALITO, ROTH, LEWIS, McKEE AND SEITZ,* Circuit Judges

The petition for rehearing filed by Appellant Nelson Egbert
in the above-entitled case having been submitted to the judges who participated in the decision of this court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court en banc, the petition for rehearing is denied.

By the Court,
/S/ Sloviter
Chief Judge

Dated: October 29, 1997

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*Hon. Collins J. Seitz, Senior Circuit Judge, as to panel rehearing only.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NELSON EGBERT	:	HONORABLE JOSEPH E. IRENAS
	:	
Plaintiff	:	CIVIL ACTION NO. 96-2255 (JEI)
	:	
v.	:	ORDER DENYING PROPOSED
	:	AMENDMENT TO COMPLAINT
JUDY REIS,	:	
HARLEYSVILLE	:	
INSURANCE	:	
COMPANIES, and	:	
HIGHWAY	:	
PAVING	:	
COMPANY	:	
Defendants	:	

APPEARANCES:

Mr. Nelson Egbert
97 Green Street
Brattleboro, VT 05301
Plaintiff Pro Se

IRENAS, District Judge:

This matter comes before the Court upon the filing by plaintiff, Nelson Egbert, pro se, of "Orders to Claims Against Judy Reis and Harleysville Insurance Company and Amend Complaint Succinctly Plead Federal Jurisdiction and Add Names of Driver and Owner of Offending Truck", and it appearing that:

1. On May 29, 1996, the Court entered an Order Granting Plaintiff Leave to Amend the Complaint and Providing for

Dismissal if Proposed Amendment is not Filed basically because (a) the plaintiff had failed to properly plead federal jurisdiction in accordance with Fed. R. Civ. P. 8(a), and (b) the complaint clearly failed to identify the proper parties and plead a proper cause of action.

2. On June 24, 1996, the plaintiff filed a pleading titled "Orders to Claims Against Judy Reis and Harleysville Insurance company and Amend Complaint Succinctly Plead Federal Jurisdiction and Add Names of Driver and Owner of Offending Truck" which appears to be his effort to amend the complaint.

3. Plaintiff's filing of June 24, 1996, will be treated as an application to file a proposed amended complaint as permitted in the Court's Order of May 29, 1996.

4. The complaint still fails to contain (1) a short, plain statement upon which the Court's jurisdiction depends, or (2) a short plain statement of the grounds showing that the pleader is entitled to relief.

IT IS on this 25th day of June, 1996,

ORDERED THAT:

1. Plaintiff's application to file an amended complaint is hereby **DENIED** for failure to comply with Fed. R. Civ. P. 8(a)(1) and (2); and

2. The within complaint is hereby **DISMISSED** pursuant to Fed. R. Civ. P. 12(h)(3).

/S/ Joseph E. Irenas
JOSEPH E. IRENAS
U.S.D.J.

UNITED STATES DISTRICT COURT
District of New Jersey

Chambers of
JOSEPH E. IRENAS
Judge

United States District Court
Post Office Box 2097
Camden, NJ 08101

May 29, 1996

Mr. Nelson Egbert
97 Green Street
Brattleboro, VT 05301

Re: Nelson Egbert
v. Judy Reis, Harleysville Insurance
Companies, and Highway Paving Company
Civil Action No. 96-2255 (JEI)

Dear Mr. Egbert:

I have reviewed your brief and am enclosing an Order allowing the case to go forward, at least against Highway Paving Company.

A review of your complaint indicates to me that although you may be knowledgeable in a variety of areas, you simply do not have the legal knowledge to pursue your complaint effectively. While everybody has a right to appear pro se, that right is of little value and may cause you great harm if you do not understand the legal system and how it works.

Your papers are full of claims that simply have no legal basis and are deficient in making allegations necessary for you to proceed in federal court.

I strongly urge you to retain the services of a lawyer who can put your complaint in proper form and allow you to proceed, assuming that there is diversity of citizenship between you and the proper defendants. Based on your papers you seem to have a claim for property damage and personal injury arising from the accident, but you will lose your ability to pursue that claim if you do not proceed in a proper manner.

In your Brief you indicated that you followed "the advice of an Assistant Clerk of the New York State Supreme Court." Suffice it to say that an Assistant Clerk at the Supreme Court of New York is simply unable to advise you about the procedures in a New Jersey court or United States District Court.

If you have any trouble finding an attorney, let me know immediately and I will see if I can help you.

Very truly yours,

/S/ Joseph E. Irenas
Joseph E. Irenas
United States District Judge

JEI:dsh
Enclosure